IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4239 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KALUBHAI GANDABHAI DANTANI

Versus

HINDUSTAN PETROLEUM CORPORATION LTD

Appearance:

1. Special Civil Application No. 4239 of 1998

MR AK CLERK for Petitioner No. 1

..... for Petitioner No. 2-8

Ms. Minoo A Shah for MR GN SHAH for Respondent No. 1

SERVED BY RPAD - (R) for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 12/01/2005

ORAL JUDGEMENT

Heard learned advocate Mr. Clerk for the petitioner; Ms. Minoo Shah for Mr. G.N.Shah for respondent No.1. Notice of rule issued by this court has been served upon the respondent No.2 but respondent No.2 has not appeared before this Court either in person or through any advocate. No officer has personally remained present before this Court when the matter was taken up for final hearing. Looking to the prayers made by the petitioner in para 22 A, B and C, there is dispute between the petitioner workmen and the respondent No.1 as to whether they are employees of the contract labour or employees of respondent No. 1. Such disputed question of fact cannot appropriately be dealt with and decided by this court in exercise of the extra ordinary powers under Article 226 of the Constitution of India. Therefore, this Court has not entertained this petition and has not considered the merits of the matter and the petition is disposed of without examining merits of the matter. However, it will be open for the petitioners to raise an industrial an industrial dispute or to file an application under the provisions of Contract Labour (Regulation Abolition) Act, 1970 before the appropriate authority within one month from the date of receipt of copy of this order. Thereafter, the concerned authority before whom the application is to be filed by the petitioners will consider such application and will examine the issue and pass appropriate orders within two months from the date of receipt of such application from the petitioners. If the reference is made before the concerned tribunal by the appropriate authority, then, the petitioner will have to file an application before the concerned tribunal about interim relief. After the application is filed by the petitioner about the interim relief before the concerned tribunal, the tribunal shall consider and decide the same in accordance with law within three months from the date of filing of such an application. Interim relief granted by this Court on 10.11.1998 will continue to operate till the application for interim relief is decided by the tribunal as directed above. With these observations and directions, this petition is disposed of without observing anything on merits. Rule is discharged. Interim relief granted earlier stands vacated. No order as to costs.

(H.K. Rathod,J.)

Vyas